IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE WRIT JURISDICTION

WRIT PETITION NO. 4141 OF 2005

Vishnu Laxman Narve .. Petitioner.

Vs.

S.P. Mandali & others. ..Respondents.

Mr. Rajiv L. Patil for the Petitioner.

Ms. Jaya Joil i/by Meena Doshi for Respondent No.1.

Mr. A.M.Joshi for Respondent No.2.

Mr.H.A.Solkar, AGP for the State-Respondent Nos.3 & 4.

CORAM : P. V. KAKADE,J.

DATED : 16TH MARCH, 2006.

P.C.:

1. Heard the learned counsel for the petitioner as well as for the respondents.

2. The petitioner has filed this petition against the order passed by the Presiding Officer, School Tribunal, rejecting the application of the petitioner for condonation of delay of 3 years and 10 months in preferring the Appeal from the impugned date of promotion of respondent No.2.

3. The petitioner filed application for condonation of delay before the School Tribunal. He preferred an appeal against the respondent management and the persons, who according to him had superseded him. It was the case of the petitioner that he intended to challenge the promotion given to respondent No.2, superseding his legitimate claim to the post of Assistant Head Master. It was contended that he moved the authority in the education department by filing applications and complaints which consumes lot of time. It was further alleged that the management is hand in gloves with respondent No.2. Respondent No.2's Appeal No. 3/2000 is pending hearing and the respondent No.1 is not taking any efforts to get vacated the interim order in favour of respondent No.2. The petitioner, therefore, submitted that there is no negligence in preferring the appeal and the delay caused deserves to be condoned and hence, the application came to be filed.

4. The Respondent contested the application on the ground that it was not bonafide nor the delay was properly explained and as such the application was sought to be dismissed.

5. The learned Presiding Officer of the Tribunal, after hearing both the parties, was of the view that the

delay was not properly explained and the application deserves to be dismissed and accordingly it was dismissed. Hence the petition.

6. At the outset it may be noted that a question for my consideration is whether the delay of 3 years and 10 months is properly explained by the petitioner for not preferring the appeal. It was the case of the petitioner that much time was consumed in correspondence in between him on one hand and the education department on the other hand. However, tribunal has rejected this contention of the petitioner on the ground that there is no documentary evidence in support of the said contention. In view of this position the petitioner was called upon to produce the correspondence which had allegedly taken place between himself and the education department so as to examine the question whether the delay is satisfactorily explained. In response to the query of this court, the petitioner has filed a compilation of documents which shows that there was some correspondence made by him in the year 1999 and copies of the representation are annexed thereto. However, it is pertinent to note, as pointed out on behalf of the respondent, that the compilation is not supported by any affidavit nor there is any indication, as to what response was given to the petitioner to such

representation or whether such representations were in fact received by the concerned authority. Be as it may, the fact remains that merely making of representations only in the year 1999 does not explain delay of nearly 4 years. In other words, there is no explanation as to why after 1999, no steps were taken by the petitioner.

7. Therefore, taking into account all the relevant facts and circumstances, I am of the view that the Tribunal has considered all the aspects in proper perspective while coming to the conclusion that the delay is not properly explained. I do not see any reason to interfere with the said order in the writ jurisdiction and as such the petition stands dismissed with no order as to costs.

16.03.2006 (P.V.KAKADE,J)

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